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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/500,897	02/09/2000	Shunpei Yamazaki	SEL 161	3195

7590

05/26/2006

Mark J Murphy
Cook Alex Mcfarron Manzo Cummings & Mehler LTD
200 West Adams Street Suite 2850
Chicago, IL 60606

EXAMINER

MISLEH, JUSTIN P

ART UNIT PAPER NUMBER

2622

DATE MAILED: 05/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/500,897

Applicant(s)

YAMAZAKI ET AL.

Examiner

Justin P. Misleh

Art Unit

2622

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 May 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Attached Correspondence.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.



DAVID OMETZ
SUPERVISORY PATENT EXAMINER

Response to Arguments

1. Applicant's arguments filed May 12, 2006 have been fully considered but they are not persuasive.
2. Applicant argues, "The Examiner contends that the specification does not disclose whether or not the cover member (6000) functions as a lens. However, page 16, lns. 13-14 of the specification states that cover member 6000 must be transmissible depending on the light emitting direction of the EL element."
3. The Examiner respectfully disagrees with Applicant's position. Just because the cover member (6000) "must be transmissible" does not necessarily mean that the cover member (6000) must function as a lens. According to *The American Heritage® Dictionary of the English Language, Fourth Edition*, a lens is "A ground or molded piece of glass, plastic, or other transparent material with opposite surfaces either or both of which are curved, by means of which light rays are refracted so that they converge or diverge to form an image." There is no disclosure whatsoever in the specification and/or the drawings that the cover member (6000) actually refracts light rays or is even capable of the same. Therefore, it cannot be concluded that the cover member (600) "can be used as a lens", as alleged by Applicant.
4. Furthermore, as previously stated, the **ONLY** disclosed relationship between the Fifth, Sixth, and Seventh Embodiments is that each of the display devices may be respectively used in a viewfinder of a video camera. The Examiner's assertion is supported on page 24 (lines 8 – 10) of the specification by stating: "The EL display panel of the present embodiment [Ninth Embodiment] is advantageously used as a display portion of the electronic apparatus according to the seventh embodiment of the inventions."

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5. Also, as clearly shown in the drawings, there are sharp distinctions in the construction and manufacture between the display devices of the Fifth Embodiment (Figures 7A and 7B) and Sixth/Seventh Embodiments (Figures 12A/12B and 13A/13B). Without undue experimentation, one with ordinary skill in the art would not know how to replace either the substrate (4010) or the cover member (6000) of the Sixth/Seventh Embodiments with the spherical substrate that functions as a lens (703-1-2) of the Fifth Embodiment, as recited by Claim 1. According to MPEP §2164.06 (a), an adequate disclosure of a combination of the above-embodiments should detail all necessary components, features, and methods required for constructing and manufacturing such a display device. The disclosure has failed to provide the required enabling disclosure for the claim language.

6. For these reasons, the 35 U.S.C. 112, first paragraph, rejection of Claims 1 – 16 and 20 – 31 is maintained.

7. Applicant additionally argue that Takahara does not disclose or suggest “an adhesive in contact with the insulating film and the lens”, as required by independent Claims 1, 5, and 9 nor discloses or suggests “an adhesive in contact with the substrate and the lens”, as required by independent Claim 13.

8. The Examiner respectfully disagrees with Applicant’s position. The Final Office Action (mailed Feb. 9, 2006) clearly pointed out, “As stated in column 54 (lines 44 – 55) and 56 (lines 5 – 15), the substrate (11 and 12 from figures 2a and 2b and 642 from figure 66a) and the lens (microlens 641) are bonded with an acrylic resin (optical coupling agent 691). Acrylic resin, as defined by technical dictionaries is well-known adhesive.”

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9. For these reasons, the 35 U.S.C. §102(e) rejection of Claims 1 – 16 and 20 – 27 is maintained. Accordingly, the 35 U.S.C. §103(a) rejection of Claims 28 – 31 is also maintained.